IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 9639 of 2005

Between:

R. Lokanatham, E. 207380, Driver Ranigunj-I Depot, S/o Narsaiah
R/o Sainikpuri, Secunderabad

..... PETITIONER

AND

1 The APSRTC rep by Regional Manager JBS Picket, Secunderabad
2 The APSRTC rep by its Depot Manager, Barkatpura, Hyderabad
3 The APSRTC rep by Depot Manager Ranigunj-I, Secunderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents herein imposing the punishment of deferment of annual increment for a period of 1 year with cumulative effect without holding any departmental enquiry vide Proc. NO. 04/2(5)/2000-Barkatpura, dt 18-1-2001, as illegal, unjust contrary to well established principles of law and as such liable to be set a side by further directing the respondents to refix the pay of the petitioner by adding the deferred increment w.e.f. 18-1-2001 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents.: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 9639 of 2005

O R D E R:

This writ petition is filed seeking to declare the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of one year with cumulative effect without holding any departmental enquiry vide Proc.No.04/2(5)/2000-Barkatpura dated 18.1.2001 as illegal and arbitrary.

The petitioner is working as a conductor in the respondent-Corporation. He was charged for certain cash and ticket irregularities. He submitted his explanation. The 2nd respondent passed an order on 18.1.2001 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the appellate authority and the same was rejected. Hence the writ petition.

The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect imposed by the 2nd respondent can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order, but he is entitled to get the increment on notional calculation from the date of this order, to which, he is entitled.

The writ petition is accordingly disposed of. No costs.

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K.C. Bhanu, J.

Date: 28--04—2005.

MVB.

..... REGISTRAR

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SECTION OFFICER

To

1 The Regional Manager, APSRTC, JBS Picket, Secunderabad
2 The Depot Manager, APSRTC, Barkatpura, Hyderabad
3 The Depot Manager, APSRTC, Ranigunj-I, Secunderabad

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